

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MM Docket No. 95-111

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b)) RM -8652
Table of Allotments)
FM Broadcast Stations)
Channels 241A and 242A)
ATHENS and ATLANTA, ILLINOIS)
)

DOCKET FILE COPY ORIGINAL

TO: Chief, Allocations Branch
Mass Media Bureau

COMMENTS AND COUNTERPROPOSAL

Atlantis Broadcasting Co. L.L.C. (hereafter Atlantis), by its attorneys, and pursuant to Sections 1.401 and 1.420 of the Commission's rules, hereby submits its Comments and Counterproposal, requesting the Commission to amend Section 73.202(b) of its rules, the FM Table of Allotments, to allot Channel 242A (96.3 MHz) at Atlanta, Illinois in lieu of the proposed allotment of Channel 241A (96.1 MHz) at Athens, Illinois.^{1/} In support thereof, the following is stated:

1. By Notice of Proposed Rule Making, DA 95-1514, released July 26, 1995, the Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau, has proposed to allot Channel 241A to Athens, Illinois, as that community's first local transmission service. In his Notice (§ 3), the Chief observes that Channel

^{1/} Channel 242A and Atlanta have been added to the above-caption.

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241A can be allotted to Athens in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.4 kilometers (4.6 miles) southwest of Athens in order to avoid a short-spacing to the licensed site of Station WHOW(FM), Channel 240A, Clinton, Illinois and Station KMXG(FM), Channel 241C1, Clinton, Iowa. Interested parties were invited to file comments on or before September 18, 1995 (Ibid. ¶5).

2. Atlantis hereby proposes to allot Channel 242A at Atlanta, Illinois, in lieu of the proposed allotment of Channel 241A at Athens. This Counterproposal is consistent with the Cut-off Procedures set forth in the Appendix to the Notice and with Section 1.420(d) of the Commission's Rules ("Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments." Appendix, ¶ 3(a)).

3. There is annexed as Appendix A hereto a channel allocation study prepared by T. Z. Sawyer Technical Consultants which demonstrates that Channel 242A may be allotted to Atlanta, Illinois with a site restriction approximately 5.7 kilometers (3.5 miles) to the southwest of the geographic reference point of that community. Channel 242A can be allotted to Atlanta in compliance with the minimum distance separation and principal community coverage requirements of the rules (Ibid., p. 1, Table 1). The Channel 242A allotment at Atlanta is mutually exclusive with the proposed allotment of Channel 241A at Athens.

4. Atlanta is an incorporated place located in Logan County, Illinois. Atlanta has a population of 1,616 and Logan County a population of 30,798 (1990 Census). The proposed Channel 242A allotment would provide a first local (aural) transmission service to Atlanta. Athens is an incorporated place located in Menard County, Illinois. Athens has a population of 1,404 and Menard County has a population of 11,164 (1990 Census). The proposed Channel 241A allotment would provide a first local (aural) transmission service to Athens.

5. The Commission established the following FM allotment priorities in Revision of FM Assignment Policies and Procedures, 90 FCC2d 88 (1982):

- (1) First full-time aural service;
- (2) Second full-time aural service;
- (3) First local service; and
- (4) Other public interest matters.

6. Based upon the present record,^{2/} the allotment of Channel 241A at Athens and the mutually exclusive allotment of Channel 242A at Atlanta would both provide the respective communities with a first local (aural) transmission service (Priority 3). The Commission en banc has recently affirmed:

[I]n a choice among competing counterproposals both involving priority 3 (first local service), the Commission has uniformly made the decision based on population difference and a comparison of reception services. And, where it has found that neither community falls below a threshold level of reception services, the Commission has based its decision on a straight population comparison.

^{2/} Athens is located circa 12 miles north of Springfield, Illinois, and would, therefore, receive primary service from at least the following stations: WFMB-FM, WNNS(FM), WQQL(FM), WDBR(FM) and WYMG(FM). According to Arbitron, the Springfield market is served by 11 commercial radio stations (Broadcasting & Cable Yearbook 1995, p. B-647 (Appendix B hereto)).

FM Table of Allotments (Blanchard, Arkansas and Stephens, Arkansas), FCC 95-327, released September 11, 1995 (§11).

7. In Blanchard, supra, the population difference between Blanchard (1990 population - 1,175) and Stephens (1990 population - 1,137) was 38 persons (Ibid., ¶¶ 2, 3). Concluding that under "long-standing precedent" this "population difference is dispositive" the Commission affirmed its allotment at Blanchard (Ibid., ¶ 13).

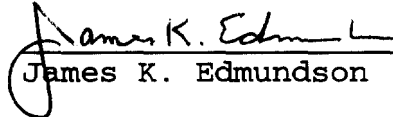
8. In this case, the population difference between Atlanta (1990 population - 1,616) and Athens (1990 population - 1,404) is 212 persons. The proposed Atlanta allocation will, therefore, advance the objectives of Section 307(b) of the Communications Act of 1934, as amended, and the Commission's FM allocation policies.

9. Atlantis hereby states that if the Commission grants this Counterproposal, it will apply for Channel 242A when it is allotted to Atlanta, and, if its application is granted, it will promptly build the station.

WHEREFORE, for the foregoing reasons, Atlantis respectfully requests the Commission to grant this Counterproposal and to allot Channel 242A to Atlanta, Illinois, in lieu of Channel 241A to Athens, Illinois.

Respectfully submitted,

ATLANTIS BROADCASTING CO. L.L.C.

By: 
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DATED: September 18, 1995
[133550.1]

APPENDIX A

**TECHNICAL EXHIBIT
PETITION TO MODIFY
FM TABLE OF ALLOTMENTS
CHANNEL 242A
ATLANTA, ILLINOIS**

Proponent: Atlantis Broadcasting Co. L.L.C.

Narrative

The technical exhibit of which this narrative is part was prepared on behalf of Atlantis Broadcasting Co. L.L.C., in support of a counterproposal to modify the FM Table of Allotments (47CFR 73.202) to add FM Channel 242A as a fully spaced Class A FM Commercial Service, to serve the community of Atlanta, Illinois.

Channel 242A, if allocated to Atlanta, Illinois will require that it be "site restricted" approximately 5.7 kilometers (3.5 miles) to the southwest of the Atlanta U.S.G.S. Geographical Reference Point. This site restriction to the southwest will not inhibit the channel from serving the entire city of license.

This site restriction is necessary to comply with the required separation distances from the various transmitter site locations proposed in the applications for Channel 243A at Farmington, Illinois.

As an aid in determining the feasibility of the proposed allocation, a suitable site which meets the separation requirements for Channel 242A was selected with the following geographical coordinates:

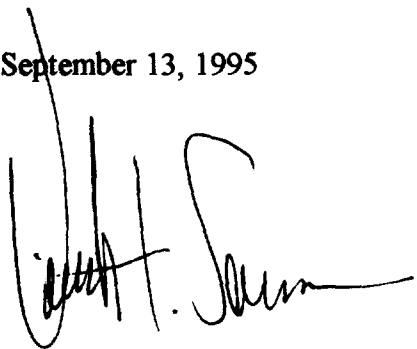
40° 13' 22" North Latitude
89° 17' 04" West Longitude.

A separation study was conducted from this site and the results of the study are contained herein as Table I. The allocation of Channel 242A at Atlanta, Illinois, meets all separation requirements.

No other AM, FM or Television assignments are licensed to this incorporated community, which is listed in the 1990 U.S. Census as having a population of 1,616 persons.

Further information, if required, concerning the technical merits or methods employed in the preparation of this technical narrative may be obtained by contacting the office of the undersigned.

September 13, 1995

A handwritten signature in black ink, appearing to read 'Timothy Z. Sawyer', with a stylized, cursive script.

Timothy Z. Sawyer

T.Z. Sawyer Technical Consultants
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Atlanta, Illinois
Petition to Add FM Channel 242A

Table I
Page 1 of 2

T.Z. Sawyer
Technical Consultants
Chevy Chase, MD

FM SEPARATION STUDY

Job Title :ATLANTA IL CHANNEL 242A

Separation Buffer 64 km

FCC DB Date : 09/07/95

Channel 242A (96.3 MHZ)

Coordinates : 40-13-22 89-17-04

Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)	
WAIZ CP	Seneca IL	BPH900517MI	239A 95.7	3.0 100.0	41-12-38 88-32-21	29.5	126.49 95.49	31 CLEAR	
WHOWFM LIC	Clinton IL	BLH6898	240A 95.9	3.00 91.0	40-05-43 88-57-51	117.4	30.75 -.25	31 SHORT	<u>/1</u>
PADD PRM-Site Restricted 7.4km (4.6 mi) Southwest	Athens IL	RM8652	241A 96.1	.0	39-53-57 89-46-04	229.0	54.71 -17.29	72 SHORT	<u>/2</u>
WLTM CPM	Rantoul IL	BMPH950525IG	241A 96.1	3.8 DA 123.0	40-13-27 88-17-56	89.6 SS	83.90 11.90	72 CLOSE	
KMXG LIC	Clinton IA	BLH861017KB	241C1 96.1	100. 299.0	41-37-58 90-24-38	329.3	183.08 50.08	133 CLEAR	
KYAT CPM	Keokuk IA	BMPH940518IP	242C2 96.3	18.0 253.0	40-25-19 91-35-42	277.2	197.63 31.63	166 CLEAR	
KIHT LIC	St. Louis MO	BLH810420AE	242C1 96.3	100. 168.0	38-36-47 90-20-09	207.1	200.34 .34	200 CLOSE	
KIHT CP	St. Louis MO	BPH940322IH	242C1 96.3	80.0 313.0	38-34-24 90-19-30	206.3 SS	203.88 3.88	200 CLOSE	
WBBMF LIC	Chicago IL	BLH891019KA	242B 96.3	4.2 DA 474.0	41-52-44 87-38-10	36.4	230.28 52.28	178 CLEAR	
NEW APP	Farmington IL	950522MB	243A 96.5	4.1 116.0	40-40-11 89-53-34	314.2	71.61 -.39	72 SHORT	<u>/3</u>

/1 Rounds to nearest kilometer (31 kilometers and meets separation requirements).

/2 This is a counterproposal to the proposed Athens, IL. allocation on Channel 241A.

/3 Rounds to the nearest kilometer (72 kilometers and meets separation requirements).

Atlanta, Illinois
Petition to Add FM Channel 242A

Table I
Page 2 of 2

T.Z. Sawyer
Technical Consultants
Chevy Chase, MD

FM SEPARATION STUDY

Job Title :ATLANTA IL CHANNEL 242A

Separation Buffer 64 km

FCC DB Date : 09/07/95

Channel 242A (96.3 MHZ)

Coordinates : 40-13-22 89-17-04

Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
NEW APP	Farmington IL	950524ME	243A 96.5	6.0 100.0	40-41-58 89-56-59	313.5	77.38 5.38	72 CLOSE
ALC Effective 11-18-88	Farmington IL		243A 96.5	.0	40-44-11 89-57-30	315.3	80.74 8.74	72 CLOSE
NEW APP	Farmington IL	950525MG	243A 96.5	6.0 100.0	40-43-21 89-59-37	313.0	81.84 9.84	72 CLOSE
WKOT LIC	Marseilles IL	BLH920316KE	243A 96.5	3.0 100.0	41-18-35 88-48-44	18.1	127.13 55.13	72 CLEAR
WIHN LIC	Normal IL	BLH920430KG	244A 96.7	3.9 125.0	40-28-34 89-02-02	36.9	35.29 4.29	31 CLOSE
WCVSFM LIC	Virden IL	BLH930930KF	244A 96.7	6.0 DA 100.0	39-33-26 89-39-24	203.3	80.47 49.47	31 CLEAR
WLBHFM LIC	Mattoon IL	BLH6155	245B 96.9	50. 152.0	39-31-02 88-22-13	134.9	110.71 41.71	69 CLEAR
WSWT LIC	Peoria IL	BLH5527	295B 106.9	50. 146.0	40-43-22 89-30-40	341.0	58.76 43.76	15 CLEAR
WPGU LIC	Urbana IL	BLH800317AL	296A 107.1	3.00 72.0	40-06-34 88-14-06	97.7	90.29 80.29	10 CLEAR

** End of separation study for channel 242A **

APPENDIX B

CERTIFICATE OF SERVICE

I, Virginia L. Davidson, a secretary in the law offices of Gardner, Carton & Douglas, do hereby certify that true copies of the foregoing "COMMENTS AND COUNTERPROPOSAL" were sent September 18, 1995, First-Class United States mail, postage prepaid, or as indicated by hand to the following:

John A. Karousos, Chief
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(BY HAND)

Nancy J. Walls
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Mr. Larry Williams
WMSI, Inc.
2901 S. Holmes
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[Petitioner]


Virginia L. Davidson